

JBP5colP

plea

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

19 Cr. 665 (AJN)

5 RAYMOND REID COLLINS, JR.,

6 Defendant.

7 -----x

8 November 25, 2019  
9 11:10 a.m.

10 Before:

11 HON. ALISON J. NATHAN,

12 District Judge

13  
14 APPEARANCES

15 GEOFFREY S. BERMAN

16 United States Attorney for the  
17 Southern District of New York

BY: RUSHMI BHASKARAN

18 Assistant United States Attorney

19 LAW OFFICES OF EDWARD J. BILINKAS, ESQ.

Attorneys for Defendant

20 BY: EDWARD J. BILINKAS  
21  
22  
23  
24  
25

JBP5colP

plea

(Case called)

THE COURT: Good morning. I will take appearances of counsel, starting with the government.

MS. BHASKARAN: Good morning, your Honor. Rushmi Bhaskaran for the United States.

THE COURT: Good morning, Ms. Bhaskaran.

MR. BILINKAS: Good morning, Judge. Edward Bilinkas appearing on of behalf of Mr. Collins.

THE COURT: Good morning, Mr. Bilinkas.

And good morning, Mr. Collins.

THE DEFENDANT: Good morning, your Honor.

THE COURT: Mr. Bilinkas, I understand that your client wishes to plead guilty to Count One of the information 19 CR 665. Is that correct?

MR. BILINKAS: That's correct, Judge.

THE COURT: Mr. Collins, before I accept your guilty plea, I am going to ask you certain questions so that I can establish to my satisfaction that you wish to plead guilty because you are guilty and not for any other reason, and also to establish that you know what you will be giving up by pleading guilty. If at any point during the proceeding you don't understand one of my questions or you want time to consult with your attorney, you let me know and I will give you as much time as you need. Okay?

THE DEFENDANT: Yes, your Honor.

JBP5colP

plea

1 MR. BILINKAS: Judge, do you want Mr. Collins  
2 standing?

3 THE COURT: No. Thank you. I will let you know when  
4 it is necessary. Thank you.

5 Mr. Collins, because I am going to ask you questions  
6 today I will place you under oath. I ask you to please rise  
7 and raise your right hand.

8 (Defendant sworn)

9 THE COURT: You are now under oath and if you answer  
10 any of my questions falsely, you may be prosecuted for the  
11 separate crime of perjury.

12 Do you understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: What is your full name?

15 THE DEFENDANT: Raymond Reid Collins, Jr.

16 THE COURT: How old are you?

17 THE DEFENDANT: I am 59.

18 THE COURT: How far did you go in school?

19 THE DEFENDANT: I have a BA in English Literature from  
20 University of Virginia.

21 THE COURT: Have you ever been treated for any type of  
22 mental illness?

23 THE DEFENDANT: I have been treated and am currently  
24 treated for bipolar and manic/mild depression.

25 THE COURT: First question with respect to that,

JBP5colP

plea

1 anything about your, the matters that you are being treated for  
2 that in any way interfere with your ability to understand  
3 what's going on here?

4 THE DEFENDANT: No, your Honor.

5 THE COURT: Or to communicate with your attorney?

6 THE DEFENDANT: No, your Honor.

7 THE COURT: Are you taking any medication?

8 THE DEFENDANT: Yes, ma'am. Yes, your Honor.

9 THE COURT: And what are you taking?

10 THE DEFENDANT: I take Cymbalta and Depakote, daily,  
11 to manage my mental illnesses.

12 THE COURT: And anything about those medications that  
13 interfere with your ability to understand what's going on?

14 THE DEFENDANT: No.

15 THE COURT: Or communicate with your attorney?

16 THE DEFENDANT: No.

17 THE COURT: Thank you.

18 Other than what you just mentioned, have you taken any  
19 drugs, medicine, pills, or alcoholic beverages in the past 24  
20 hours?

21 THE DEFENDANT: No, your Honor.

22 THE COURT: Your mind is clear today?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: You understand what is happening here  
25 today?

JBP5colP

plea

1 THE DEFENDANT: Yes, I do.

2 THE COURT: Does either counsel have any doubt as to  
3 Mr. Collins' competence to enter a guilty plea at this time?

4 MS. BHASKARAN: No, your Honor.

5 MR. BILINKAS: Absolutely none.

6 THE COURT: On the basis of Mr. Collins's response to  
7 my questions, my observations of his demeanor here in court,  
8 and the representations of counsel, I do find that he is fully  
9 competent to enter an informed plead of guilty at this time.

10 Mr. Collins, I want to confirm again that you received  
11 a copy of the information in this case, the document that  
12 contains the charge against you which is dated -- which is  
13 labeled at the top 19 CR 665.

14 Did you receive that?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Have you had enough of a chance to discuss  
17 with your lawyer the charge to which you intend to plead guilty  
18 and any possible defenses to that charge?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Has your lawyer explained to you the  
21 consequences of entering the plea of guilty?

22 THE DEFENDANT: Yes.

23 THE COURT: And are you satisfied with your lawyer's  
24 representation of you?

25 THE DEFENDANT: Absolutely.

JBP5colP

plea

1           THE COURT: I am now going to explain certain  
2 constitutional rights that you have. These are rights that you  
3 will be giving up if you do enter a guilty plea. Please listen  
4 carefully to what I'm about to say and if there is anything you  
5 don't understand, again, let me know and either I or your  
6 lawyer will explain the matter more fully.

7           Under the Constitution and laws of the United States  
8 you have a right to plead not guilty to the charges in the  
9 information.

10          Do you understand that?

11          THE DEFENDANT: Yes.

12          THE COURT: If you did plead not guilty, you would be  
13 entitled to a speedy and public trial by a jury on the charge  
14 contained in the information.

15          Do you understand that?

16          THE DEFENDANT: Yes.

17          THE COURT: At trial, you would be presumed to be  
18 innocent and the government would be required to prove you  
19 guilty by competent evidence beyond a reasonable doubt before  
20 you could be found guilty.

21          Do you understand that?

22          THE DEFENDANT: Yes.

23          THE COURT: And a jury of 12 people would have to  
24 agree unanimously that you were guilty and you would not have  
25 to prove that you were innocent if you were to go to trial.

JBP5colP

plea

1 Do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: At that trial, and at every stage of your  
4 case, you would be entitled to be represented by a lawyer. If  
5 you couldn't afford a lawyer, one would be appointed, free of  
6 cost, to represent you.

7 Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: During a trial, the witnesses for the  
10 government would have to come to court and testify in your  
11 presence. Your lawyer could cross-examine the witnesses for  
12 the government, object to evidence offered by the government,  
13 and offer evidence on your own behalf, if you so desired. You  
14 would have the right to have subpoenas issued or other process  
15 used to compel witnesses to testify in your defense.

16 Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: At a trial, although you would have the  
19 right to testify if you chose to do so, you would also have the  
20 right not to testify and if you decided not to testify no one,  
21 including the jury, could draw any inference or suggestion of  
22 guilt from the fact that you did not testify.

23 Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you understand that by pleading guilty

JBP5colP

plea

1 you are giving up your right to seek the suppression of any  
2 evidence that the government has against you?

3 THE DEFENDANT: Yes, I understand.

4 THE COURT: And if you were convicted at a trial, you  
5 would have the right to appeal that verdict. Do you understand  
6 that?

7 THE DEFENDANT: Yes.

8 THE COURT: So even now as you are here entering this  
9 plea, you do have the right to change your mind, plead not  
10 guilty, and go to trial on the charges contained in the  
11 information.

12 Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: But if you plead guilty and if I do accept  
15 your plea, you will give up your right to a trial and the other  
16 rights I have just discussed other than the right to a lawyer,  
17 which you have regardless of whether or not you plead guilty.  
18 But, if you plead guilty, there will be no trial and I will  
19 enter a judgment of guilty and then I will sentence you at a  
20 later date on the basis of your plea after I have considered a  
21 presentence report that will be prepared by the Probation  
22 Department and the submissions that I get from your lawyers and  
23 from the government.

24 Do you understand that?

25 THE DEFENDANT: Yes, I do.



JBP5colP

plea

1 THE COURT: If you plead guilty there will be no trial  
2 and no appeal with respect to whether you did or did not commit  
3 this crime.

4 Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: If you plead guilty you also have to give  
7 up your right not to incriminate yourself because I will ask  
8 you questions today about what you did and you will have to  
9 admit and acknowledge your guilt.

10 Do you understand that?

11 THE DEFENDANT: Yes, I do.

12 THE COURT: Mr. Collins, are you willing to give up  
13 your right to a trial and the other rights I have discussed  
14 with you?

15 THE DEFENDANT: Yes, I am.

16 THE COURT: Turning to the charge in the information,  
17 do you understand that you are charged with possession of child  
18 pornography in violation of 18 U.S.C. Section 2252A(a)(5)(B).

19 Do you understand that's the charge?

20 THE DEFENDANT: Yes, I do.

21 THE COURT: Ms. Bhaskaran, I will ask the government  
22 to please state the elements of the offense in question.

23 MS. BHASKARAN: The government would have to prove the  
24 following three elements beyond a reasonable doubt:

25 First, that the defendant knowingly possessed or

JBP5colP

plea

1 accessed with intent to view any material that contained an  
2 image of child pornography; second, that the defendant knew  
3 that the material contained child pornography; and third, that  
4 such child pornography had been mailed, shipped, or transported  
5 using any means or facility of interstate or foreign commerce,  
6 or in or affecting interstate or foreign commerce by any means  
7 including by computer.

8 In addition, the government would have to prove venue  
9 in the Southern District of New York by a preponderance of the  
10 evidence.

11 THE COURT: Thank you.

12 Mr. Collins, you heard the lawyer for the government  
13 state the elements of the offense.

14 THE DEFENDANT: Yes, I did.

15 THE COURT: And you understand if you were to go to  
16 trial, the government would have to prove all of those elements  
17 beyond a reasonable doubt.

18 Do you understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: What I am going to do now is talk to you,  
21 Mr. Collins, about the maximum possible penalties that you face  
22 for this crime, the maximum means the most that could possibly  
23 be imposed. It doesn't mean that is what you necessarily will  
24 receive but you do have to understand that by pleading guilty  
25 you are exposing yourself to the possibility of receiving any

JBP5colP

plea

1 combination of punishments up to the maximum that I am about to  
2 describe.

3 Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: So, first I'm going to talk about the  
6 maximum possible restrictions on your liberty. The maximum  
7 term of imprisonment for this crime is 20 years, which could be  
8 followed by up to three years of supervised release.

9 Do you understand that?

10 THE DEFENDANT: Yes, I do.

11 MS. BHASKARAN: Your Honor, I believe the maximum term  
12 of supervised release in this case is life with a mandatory  
13 minimum of supervised release of three years. There was a  
14 prior plea agreement in this case. If I sent that by error, I  
15 can provide you with the corrected plea agreement.

16 MR. BILINKAS: And, Judge, for the record, I have  
17 received that and I have reviewed that with my client and agree  
18 and accept that as accurate.

19 THE COURT: Let me double check to my own  
20 satisfaction. That is what's contained in the November 21st  
21 plea agreement.

22 MS. BHASKARAN: That's correct.

23 THE COURT: Thank you.

24 Mr. Collins, a correction. The maximum term of  
25 supervised release for this crime is life.

JBP5colP

plea

1 Do you understand that?

2 THE DEFENDANT: Yes, I do.

3 THE COURT: And, as indicated, there is a mandatory  
4 minimum term of five years of supervised release.

5 Do you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: Does everybody agree that that is the  
8 accurate amount?

9 MS. BHASKARAN: Yes, your Honor.

10 MR. BILINKAS: Yes.

11 THE COURT: Just to be clear, Mr. Collins, the term  
12 supervised release, that means you would be subject to  
13 supervision by the Probation Department, there would be rules  
14 of supervised release that you would have to follow. If you  
15 were to violate those rules you could be returned to prison  
16 without a jury trial to serve additional time with no credit  
17 for time that you served in prison as a result of your sentence  
18 and no credit for any time spent on post-release supervision.

19 Do you understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: You should understand there is no parole  
22 in the federal system and if you are sentenced to prison, you  
23 will not be released early on parole.

24 Do you understand that?

25 THE DEFENDANT: Yes.

JBP5colP

plea

1 THE COURT: In addition to the restrictions on your  
2 liberty, the maximum possible punishment also includes certain  
3 financial penalties. Here, the maximum allowable fine is  
4 \$250,000 or twice the gross gain derived from the offense or  
5 twice the gross loss to persons other than yourself.

6 Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: In addition, I can order restitution to  
9 any person or entity injured as a result of your criminal  
10 conduct. I can also order you to forfeit all property derived  
11 from the offense or used to facilitate the offense.

12 Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: And we will talk more about your plea  
15 agreement in a moment but I will note that in your plea  
16 agreement with the government, it is indicated that you admit  
17 the forfeiture allegation and agree to forfeit to the United  
18 States certain property that was used to facilitate the offense  
19 and that is outlined in the consent preliminary order of  
20 forfeiture as to specific property, which I understand you  
21 signed today.

22 Is that correct?

23 THE DEFENDANT: Yes.

24 THE COURT: You admit the forfeiture allegation of the  
25 information?

JBP5colP

plea

1 THE DEFENDANT: Yes.

2 THE COURT: And you agree to forfeit the property used  
3 to facilitate the offense as described in the consent  
4 preliminary order of forfeiture?

5 THE DEFENDANT: Yes.

6 THE COURT: In addition, I must order a mandatory  
7 special assessment of \$100 and an additional assessment of  
8 \$5,000 pursuant to 18 U.S.C. Section 3104(a).

9 Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you understand that what I have just  
12 described are the maximum possible financial penalties you face  
13 for this crime?

14 THE DEFENDANT: Yes, I do.

15 THE COURT: Mr. Collins, are you a United States  
16 citizen?

17 THE DEFENDANT: Yes, I am.

18 THE COURT: Do you understand that as a result of your  
19 guilty plea you may lose certain valuable civil rights to the  
20 extent that you have them now or could otherwise obtain them  
21 now such as the right to vote, the right to hold public office,  
22 the right to serve on a jury, and the right to possess any kind  
23 of firearm.

24 Do you understand that?

25 THE DEFENDANT: Yes.

JBP5colP

plea

1 THE COURT: Are you serving any sentence, either state  
2 or federal, or being prosecuted in state court for any crime?

3 (Defendant and counsel conferring)

4 MR. BILINKAS: Judge, when he was arrested on these  
5 charges, Judge, I believe they found some firearms and that's  
6 being handled --

7 THE DEFENDANT: May I speak?

8 THE COURT: Sure.

9 THE DEFENDANT: They found some magazines in excess  
10 capacity of New Jersey state law, gun magazines. They found  
11 some marijuana also in my home. I face charges that are not  
12 yet indicted at superior court in Morristown, New Jersey, for  
13 those two events. My understanding is the marijuana charge  
14 will be reduced to disorderly persons, Class IV felonies  
15 currently, but that I think is essentially waiting disposition  
16 of this matter.

17 MR. BILINKAS: Judge, I have talked to the attorney  
18 handling those matters. They're waiting to see the disposition  
19 of this case. He is hoping that those matters will be  
20 dismissed.

21 THE COURT: I understand.

22 The point I want to make clear, Mr. Collins, is to  
23 make sure you understand that if you were to receive a sentence  
24 in those state cases or any kind of punishment, it could be  
25 consecutive to the punishment you receive here.

JBP5colP

plea

1 Do you understand that?

2 THE DEFENDANT: Yes, I do.

3 THE COURT: I want to make sure you understand that as  
4 a result of your guilty plea to the offense charged here, you  
5 may be required to register as a sex offender under the Sex  
6 Offender Registration and Notification Act.

7 Do you understand that?

8 THE DEFENDANT: Yes, I do.

9 THE COURT: And just to, again, we are going to  
10 discuss your guilty plea more in a moment, but for immediate  
11 purposes I will reference the second paragraph on page 5 on  
12 this topic. It says you understand and acknowledge that under  
13 the Sex Offender Registration and Notification Act of federal  
14 law, you must register and keep the registration current in  
15 each of the following jurisdictions -- where you reside, where  
16 you are employed, where you are a student -- and that you  
17 understand that the requirements for registration include  
18 providing your true name, residence address, and the name and  
19 addresses of any places where you are or will be an employee or  
20 a student, and you understand that the requirement to keep the  
21 registration current includes informing at least one of the  
22 aforementioned jurisdictions not later than three days after  
23 any change of name, residence, employment, or student status,  
24 and that you understand that the failure to comply with these  
25 obligations subjects you to prosecution for failure to register



JBP5colP

plea

1 under Federal Law, Title 18, United States Code, Section 2250,  
2 which is punishable by fine, imprisonment, or both.

3 Do you understand all of that?

4 THE DEFENDANT: Yes, I do.

5 THE COURT: I do want to make sure that you understand  
6 that if your attorney or anyone else has attempted to predict  
7 what your sentence will be, that prediction could be wrong. No  
8 one, not your lawyer, not the government's lawyer -- no one --  
9 can give you any assurance of what your sentence will be since  
10 I'm going to decide your sentence and I'm not going do that  
11 now. I am going to wait until I receive that presentence  
12 report which will be prepared by the Probation Department. I  
13 will do my own independent calculation of the sentencing  
14 guideline range. I will consider it and any possible  
15 departures from it and determine what a reasonable sentence is  
16 for you based on the sentencing factors stated in a statute  
17 called 18 U.S.C. Section 3553(a).

18 Do you understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: Have you had sufficient time to discuss  
21 these sentencing issues with your attorney?

22 THE DEFENDANT: Yes, I have.

23 THE COURT: So, even if your sentence is different  
24 from what your lawyer or anyone else has told you it might be,  
25 even if it is different from what you expect or what's

JBP5colP

plea

1 contained in the written plea agreement that you entered into  
2 with the government, you will still be bound by your guilty  
3 plea and will not be allowed to withdraw your plea of guilty.

4 Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: Now I do understand there is, as we  
7 referred a couple times already, there is a written plea  
8 agreement entered into between you and your lawyer and the  
9 lawyer for the government; is that correct?

10 THE DEFENDANT: Yes.

11 THE COURT: I have the original of the agreement in  
12 front of me at the moment and on the front page it is dated  
13 November 21st, 2019. The main document is six pages long and  
14 then it has attached as Exhibit A the proposed preliminary  
15 order of forfeiture. I'm going to hand the original to my  
16 deputy, ask him to please mark it as Court Exhibit 1, and then  
17 place the original of the document in front of Mr. Collins,  
18 please.

19 Do you have the original in front of you, Mr. Collins?

20 THE DEFENDANT: Yes.

21 THE COURT: And on the front page is it dated November  
22 21st, 2019?

23 THE DEFENDANT: Yes.

24 THE COURT: And is the agreement document six pages  
25 long, plus the Exhibit A?

JBP5colP

plea

1 THE DEFENDANT: Yes.

2 THE COURT: And on the last page of the agreement on  
3 the sixth page; is that your signature?

4 THE DEFENDANT: Yes, it is.

5 THE COURT: And you signed it today?

6 THE DEFENDANT: Yes, I did.

7 THE COURT: Did you sign it in the presence of your  
8 attorney?

9 THE DEFENDANT: Yes, I did.

10 THE COURT: Did you read the document at some point  
11 before you signed it?

12 THE DEFENDANT: Yes.

13 THE COURT: And you discussed it with your lawyer  
14 before you signed it?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you believe you fully understood it  
17 before you signed it?

18 THE DEFENDANT: Yes.

19 THE COURT: One of the features of your agreement with  
20 the government is that you have agreed on a guideline range  
21 this applies in this case, that's something called the  
22 stipulated guideline range.

23 Do you understand that?

24 THE DEFENDANT: Yes, I do.

25 THE COURT: And in your agreement with the government

JBP5colP

plea

1 you have agreed the stipulated guideline range is 78 to 97  
2 months' imprisonment.

3 Do you see that?

4 THE DEFENDANT: Yes I did.

5 THE COURT: It is important to understand that that  
6 agreement as to the applicable guideline range is binding on  
7 you, it is binding on the government, but it is not binding on  
8 me. I have my own obligation to determine the correct  
9 guideline range and what the appropriate sentence is in your  
10 case. I'm not saying I will come up with a range different  
11 from the one you agreed to with the government but, if I do, I  
12 will not let you withdraw your plea even if the range I  
13 determine is higher than the one that you agreed to with the  
14 government.

15 Do you understand that?

16 THE DEFENDANT: Yes, I do.

17 THE COURT: In your plea agreement you have waived  
18 your right to appeal or otherwise challenge any sentence that  
19 is 97 months or below. In other words, if I were to sentence  
20 you to 97 months or anything less than 97 months you would have  
21 no right to appeal or otherwise try to challenge that sentence.

22 Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: I mentioned it earlier but your plea  
25 agreement has attached to it the preliminary order of

JBP5colP

plea

1 forfeiture. I will just confirm with it in front of you that  
2 that's the document that you reviewed and signed today?

3 THE DEFENDANT: Yes, it is.

4 THE COURT: And you had an opportunity to discuss that  
5 with your attorney before you signed it?

6 THE DEFENDANT: Yes, I have.

7 THE COURT: Counsel, are there any other aspects of  
8 the plea agreement that you would like me to emphasize at this  
9 time?

10 MS. BHASKARAN: No, your Honor.

11 MR. BILINKAS: No, your Honor.

12 THE COURT: Thank you.

13 What I want to ask you now, Mr. Collins, is whether  
14 that plea agreement that we have been discussing, does it  
15 constitute your complete and total understanding of the entire  
16 agreement between you and the government?

17 THE DEFENDANT: Yes, it does.

18 THE COURT: Other than what's written in this  
19 agreement, has anyone made any promise or offered you any  
20 inducement to plead guilty or to sign this agreement?

21 THE DEFENDANT: No.

22 THE COURT: Has anyone threatened you or forced you to  
23 plead guilty or to sign the plea agreement?

24 THE DEFENDANT: No.

25 THE COURT: Has anyone made a promise to you as to

JBP5colP

plea

1 what your sentence will be?

2 THE DEFENDANT: No.

3 THE COURT: Thank you.

4 Mr. Scott, if you can please gather the plea  
5 agreement? Thank you. Mr. Scott, may I see it for a moment?

6 Mr. Scott will make a copy of the plea agreement with  
7 this and a copy of the signed order of forfeiture. I will ask  
8 the government to maintain the original of the plea agreement  
9 in its records, please. Thank you.

10 Mr. Collins, what I am going to ask you to do now,  
11 sir, is to please tell me in your own words what you did that  
12 makes you believe that you are guilty of the crime charged in  
13 the information.

14 THE DEFENDANT: From at least in or about August 2016,  
15 up to and including at least in or about October 2016, in the  
16 Southern District of New York and elsewhere, I knowingly did  
17 possess and access with intent to view child pornography.

18 THE COURT: Thank you.

19 Ms. Bhaskaran, any questions you would like me to ask  
20 Mr. Collins and or does the government have a proffer with  
21 respect to interstate commerce?

22 MS. BHASKARAN: The government does have a proffer  
23 with respect to interstate commerce in that the account that  
24 belonged to the defendant that contained the child pornography  
25 was accessed using the Internet from a computer or other

JBP5colP

plea

1 electronic device. In addition, the government can proffer  
2 that the child pornography did contain an image of a  
3 prepubescent child or a minor under the age of 12.

4 THE COURT: Any questions you would like me to ask  
5 Mr. Collins?

6 MS. BHASKARAN: No, your Honor.

7 THE COURT: Thank you.

8 MR. BILINKAS: Judge, for the record, we acknowledge  
9 both of those facts.

10 THE COURT: Thank you.

11 Let me ask, Mr. Bilinkas, you believe there is a  
12 sufficient factual predicate for this plea?

13 MR. BILINKAS: Yes.

14 THE COURT: Do you know of any valid defense that  
15 would likely prevail at trial or any reason your client should  
16 not be permitted to plead guilty?

17 MR. BILINKAS: No.

18 THE COURT: Now I will ask Ms. Bhaskaran to please  
19 make a proffer to the Court, if we were to proceed to trial,  
20 what the evidence would consist of and what it would show with  
21 respect to Mr. Collins.

22 MS. BHASKARAN: Your Honor, if this matter were to  
23 proceed to trial, the government's evidence would consist of  
24 files contained in a DropBox account that contained over 12,000  
25 images of child pornography including images of a prepubescent

JBP5colP

plea

1 child or minor under the age of 12. The government would also  
2 put forth evidence from DropBox, as well as Google,  
3 establishing that this account belonged to the defendant.

4 And, finally, the government's evidence would consist  
5 of IP records showing that the DropBox account was accessed  
6 on the Internet from an electronic device in the Southern  
7 District of New York.

8 THE COURT: Thank you.

9 Any objections to the government's proffer?

10 MR. BILINKAS: No, Judge.

11 THE COURT: Thank you.

12 In a moment I am going to ask Mr. Collins for his  
13 formal entry of plea. Before I do so a final opportunity for  
14 counsel: Is there any reason I should not accept the  
15 defendant's plea of guilty?

16 MS. BHASKARAN: Not from the government, your Honor.

17 MR. BILINKAS: No, Judge.

18 THE COURT: Mr. Collins, based on everything we have  
19 discussed I will ask for your formal entry of plea with respect  
20 to Count One of the information 19 CR 665. How do you wish to  
21 plead?

22 THE DEFENDANT: Guilty.

23 THE COURT: Mr. Collins, because you acknowledge that  
24 you are in fact guilty as charged in the information, because I  
25 am satisfied that you know of your rights including your right



JBP5colP

plea

1 to go to trial and that you are aware of the consequences of  
2 your plea including the sentence which may be imposed, because  
3 I find that you are knowingly and voluntarily pleading guilty,  
4 I accept your guilty plea and enter a judgment of guilty on  
5 Count One of the information.

6 With respect to sentencing, I will ask Mr. Scott to  
7 get a date, I don't know if he conferred with you with counsel  
8 in advance but we will work on that.

9 In the meantime, Mr. Collins, the Probation Department  
10 will want to interview you in connection with that report that  
11 it will prepare.

12 Mr. Bilinkas, does defense counsel wish to be present  
13 for any interview in connection with the report?

14 MR. BILINKAS: Yes.

15 THE COURT: I do order the preparation of the  
16 presentence report and order that probation conduct no  
17 interview unless defense counsel is present.

18 Mr. Collins, if you do choose to speak to the  
19 Probation Department, please make sure that anything you say is  
20 truthful and accurate. I will read the report carefully and it  
21 is important to me in deciding what sentence to impose. You  
22 and your counsel have the right to examine the report and  
23 comment on it at the time of sentencing and I do urge you to  
24 read it and discuss it with your lawyer before sentencing. If  
25 there are any mistakes in it, please, point them out to your

JBP5colP

plea

1 lawyer so that he can bring them to my attention before  
2 sentencing. Okay?

3 I propose, counsel, a sentencing date of February 17th  
4 at 11:00 a.m.

5 MS. BHASKARAN: That's okay for the government.

6 THE COURT: Mr. Bilinkas?

7 MR. BILINKAS: Fine, Judge.

8 THE COURT: Sentencing is hereby set for that date and  
9 time.

10 I direct the government to provide the probation  
11 officer with its factual statement within seven days. Defense  
12 counsel must arrange for the defendant to be interviewed by  
13 probation department within the next two weeks. I refer  
14 counsel to my individual rules and practices for criminal cases  
15 available on the Court's website which contain some rules  
16 regarding sentencing submissions. In accordance with those  
17 rules, the defense submission is due one week prior to  
18 sentencing and the government's submission is due three days  
19 prior to sentencing.

20 Ms. Bhaskaran, the government's position with respect  
21 to remand?

22 MS. BHASKARAN: Yes.

23 The government's position is that remand is mandatory  
24 in this case pursuant to 18 U.S.C. Section 3143(a)(2).

25 THE COURT: Okay.

JBP5colP

plea

1 Mr. Bilinkas?

2 MR. BILINKAS: Judge, I respectfully disagree with the  
3 government. I believe the Court has discretion. I believe,  
4 Judge, that 3143(a)(2), although it says "shall," refers you to  
5 subsection B where it indicates a judicial officer -- if a  
6 judicial officer finds by clear and convincing evidence that  
7 the person is not likely to flee or pose a danger to any other  
8 person or the community, that he does not have to be detained.

9 In this particular instance, Judge, I think it's clear  
10 that Mr. Collins is not a flight risk, nor is he a danger to  
11 anyone. This case, Judge, I submit, is extremely unique. It's  
12 different than any other case that I have dealt with and I have  
13 been practicing going on 39 years.

14 The government didn't seek to detain him under that  
15 statute, Judge, when he was charged with these offenses and  
16 basically pretrial services, I submit, will say that he has  
17 gone above and beyond everything that was requested of him  
18 while he was on pretrial services.

19 THE COURT: Just to focus the conversation, I don't  
20 doubt that. I suspect the government wouldn't disagree with  
21 that in terms of the analysis prior to the judgment of guilty.  
22 The question is flight risk and safety to the community.

23 Under 18 U.S.C. 3156(a)(4), the crimes under Chapter  
24 110 which include the conviction here, I believe, do require  
25 immediate remand. The Circuit has carved out, through a series

JBP5colP

plea

1 of cases, an exception to that under extraordinary  
2 circumstances but has, in other cases, confined extraordinary  
3 circumstances, it shows circumstances which don't apply in the  
4 normal course or case. So, it is mandatory remand but with my  
5 limited discretion in the case of extraordinary circumstances.

6 Do you agree that's the right analysis?

7 MR. BILINKAS: Yes, Judge. I do agree.

8 If I can hand these documents up to the Court?

9 THE COURT: What are they and have you shown the  
10 government?

11 MR. BILINKAS: Yes. I have given the government  
12 copies. Judge, these are three different reports,  
13 psychological reports, one is from Dr. Wit, I submit a  
14 world-renown psychosexual therapist. He was consulted with  
15 regards to the drafting of Megan's Law; there is a report from  
16 Dr. Singer, who is a psycho sexual therapist that my client has  
17 been seeing; and finally Dr. Pierce Skinner, who has been  
18 treating my client since 2011 with regards to various drug  
19 abuse issues.

20 Judge, why I say this case is unique and there are  
21 exceptional circumstances is that the allegations --  
22 allegations or facts that my client pled guilty to relate to  
23 conduct that was in, for a short period of time, in 2016, and  
24 we are only talking about a few months where he went on his  
25 devices and downloaded child pornography. Prior to any

JBP5colP

plea

1 detection by the government or any authorities, Judge, he  
2 basically stopped using those devices, deleted the child  
3 pornography, and for basically two years prior to the  
4 government's coming in and seizing those documents had  
5 absolutely nothing do with child pornography. What's unique  
6 about this case is an exceptional circumstance, Judge, is that  
7 once he deleted these items in 2016, he sought therapy. He  
8 voluntarily sought out therapy for drug abuse and mental health  
9 issues. He has severe depression, he bipolar. That was  
10 causing all sorts of mental health issues. He became addicted  
11 to cocaine and Adderall and that fueled those mental health  
12 issues. Those reports that I have submitted to your Honor, one  
13 from Dr. Wit, basically did a whole clinical evaluation of him  
14 and basically says he voluntarily stopped, which I don't  
15 believe the government contests. He voluntarily sought  
16 treatment for his mental health and substance abuse issues. He  
17 basically says, Judge, that he is not a danger to others,  
18 doesn't present a threat to anyone, he is not a pedophile, and  
19 basically this was episodal with regards to his type of  
20 conduct.

21           You also have the background from his drug abuse  
22 therapist and he has known him since 2011 and that clearly  
23 indicates, Judge, that he sought treatment -- after these  
24 downloads or this subject of these charges he sought treatment.

25           He has been drug free now, Judge, for over two years.

JBP5colP

plea

1 Dr. Wit suggested that he see a psychosexual therapist after he  
2 did his evaluation and that's the report from Dr. Skinner --  
3 Singer. Excuse me, I keep confusing those two names.

4 Basically, he has been seeing him once a week, Judge, since he  
5 has been out, and he basically says he doesn't see any signs  
6 that he -- clinical signs that he is in acute psychiatric  
7 crisis. He expressed extreme remorse, shame, and guilt. He  
8 basically says he is not a danger to anyone and at this point  
9 shows no clinical signs that would impede his self-control.

10 Unlike every other case, Judge, where the government  
11 comes in, seizes various devices, finds child pornography, this  
12 had to do with conduct that was from 2016. He deleted all of  
13 those things. He voluntarily sought treatment, Judge. For the  
14 last two years no substance abuse, no issues with any type of  
15 pornography, and basically he has done everything within his  
16 power to address those issues and that was done years before  
17 anyone found these items.

18 So, again, Judge, you are going to have to, as you  
19 indicated, make an analysis under 3553(a). I submit that under  
20 these circumstances this is a unique set of facts, his mental  
21 health issues, his drug abuse issues which have been addressed  
22 fueled this conduct and that's reflected in those reports that  
23 I just gave you so I don't think, Judge -- and I think him  
24 being out on pretrial services clearly indicates he is not a  
25 flight risk and I have substantial documentation from what I

JBP5colP

plea

1 consider very profound experts in the area saying he is not a  
2 danger, unlike just about every other case, Judge, where  
3 someone admits to doing it, has been doing it up to the point  
4 when their items were seized.

5 THE COURT: Do you have any example cases, any  
6 authority for the application of the Circuit's limited  
7 instruction as to quite limited discretion in this area for a  
8 comparable case?

9 MR. BILINKAS: No, Judge. I have no cases. And I  
10 submit, Judge, that this is a unique set of circumstances and,  
11 again, I understand now that he has pled guilty to a child  
12 pornography case there is probably not a person on the face of  
13 the earth that wouldn't argue that he is a danger to children  
14 or those circumstances but with the conduct that he has  
15 exhibited for the last two years, even two years prior to his  
16 arrest before this was discovered, I think this puts this in a  
17 totally different category.

18 THE COURT: So, I see where those are arguments as to  
19 lack of danger. The difficulty I am having is how to translate  
20 that over into the law on extraordinary circumstances because  
21 it's not the same analysis.

22 MR. BILINKAS: I understand that, Judge and, again,  
23 like I said, I'm a former state prosecutor, federal prosecutor.  
24 His wife is here, his family is here. His wife came in with  
25 him to my office when he first came in to retain me. He has

JBP5colP

plea

1 told them, everyone is aware of this. I'm in the process now,  
2 Judge, of getting all these letters. I probably have 15, 16  
3 different letters from people that have known him, they have  
4 known his struggles. They have seen a monumental change in him  
5 in the last two years.

6 So, for two years he has been getting treatment for  
7 his mental health issues, substance abuse issues, he is on the  
8 right medication. He is functioning better than he has his  
9 whole life and for now, Judge, to lock him up and throw him in  
10 jail and take him away from all of those tools that he has been  
11 using and not just after his arrest, prior to his arrest I  
12 think, would be an injustice.

13 THE COURT: Ms. Bhaskaran?

14 MS. BHASKARAN: Thank you, your Honor.

15 As your Honor intimated, there is two pieces of this.

16 THE COURT: Can you hang on one second?

17 (pause)

18 MS. BHASKARAN: As your Honor intimated there is two  
19 pieces to the analysis. First, the aspect as to whether the  
20 defendant poses an ongoing danger to the community; and the  
21 second is whether there are exceptional reasons that warrant an  
22 exception to Congress' mandate for mandatory remand in a case  
23 like this.

24 With respect to that first bucket, the government is  
25 not making an argument here that Mr. Collins presently is a



JBP5colP

plea

1 danger to the community that could not be managed with the  
2 appropriate release conditions. That's not what this is about  
3 and I think the majority of Mr. Bilinkas' arguments spoke to  
4 the danger aspect of this which are not in dispute with the  
5 government.

6 So, what this really comes down to for the Court's  
7 consideration is whether there are exceptional reasons that  
8 would warrant an exception to mandatory remand. And, as your  
9 Honor stated, it is a very high standard and may be a flexible  
10 standard, but under *United States v. Lee*, which is 360 F.3d  
11 401, the Second Circuit has said that exceptional reasons arise  
12 from a combination of circumstances giving rise to situations  
13 out of the ordinary. That case also said that circumstances  
14 that are purely personal do not typically give rise to  
15 exceptional circumstances. And to put a finer point on that,  
16 to cite another decision, *United States v. Lippold*, that's 175  
17 F.Supp.2d 537, the Court there held that a defendant that was  
18 taking care of three young children, one of whom was suffering  
19 from a serious medical issue, and the defendant needing to  
20 work, were the types of purely personal reasons that were not  
21 out of the ordinary that constituted exceptional circumstances.

22 And, respectfully, your Honor, while the government  
23 appreciates the defendant's early acceptance of responsibility,  
24 I think the bulk of Mr. Bilinkas' arguments are really  
25 arguments key to 3553(a) with respect to the length of the

JBP5colP

plea

1 appropriate sentence but none of those arguments, I think,  
2 spoke directly to the question before the Court which is  
3 whether there are exceptional reasons and, your Honor,  
4 respectfully, we do not think that the defendant has proffered  
5 any reasons that warrant an exception to mandatory remand at  
6 this time.

7 THE COURT: Does the government think that any of the  
8 psychological psychosocial information that's been provided  
9 could bear on the question of exceptional circumstances? I  
10 suppose the contention is to the extent that Congress has  
11 required mandatory remand in a case like this it is because of  
12 a default assumption of dangerousness and the argument put  
13 forward by Mr. Bilinkas is that there is an amount of  
14 information here that is exceptional to the extent that it  
15 would demonstrate, as the government essentially concedes, that  
16 there is not a danger to the community.

17 MS. BHASKARAN: Your Honor, I mean, I think another  
18 way of thinking about Congress' mandate here is also the  
19 seriousness of the offense. At this time now we are at a point  
20 where the defendant has pleaded guilty to an offense that  
21 Congress has described in the bail reform statute as a crime of  
22 violence and, in addition, with respect to the ongoing  
23 psychotherapy, I haven't -- I specifically looked for a case in  
24 the Southern District that direct directly addressed this point  
25 in the context of exceptional reasons. I didn't see one based

JBP5colP

plea

1 on my research but I did see an Eighth Circuit case in which  
2 this precise question was presented, the defendant was  
3 receiving ongoing psychotherapy, and the Court's analysis there  
4 was that defendants, in many cases, who are beginning the  
5 process of rehabilitation, may be in the process of seeking and  
6 engaging in psychotherapy. That is the type of thing that is  
7 not exceptional but more in the form of ordinary.

8 MR. BILINKAS: Judge, if I can just respond?

9 THE COURT: Yes.

10 MR. BILINKAS: I can't imagine a case more out of the  
11 ordinary than this particular case. Again, also, which is  
12 particular to him, as soon as he starts getting help, substance  
13 abuse, counseling, mental health, finding the right types of  
14 medication to control his bipolar and his depression, he stops  
15 using Adderall and cocaine, those reports, all the doctors are  
16 clearly saying that those issues fueled his conduct. It was  
17 situational as a result of that. And, again, that's not just  
18 some doctor coming up with this theory after the fact. He  
19 basically -- and the proof is in the pudding: He stopped  
20 viewing child pornography. There is nothing that the  
21 government found after that brief period of time. He deleted  
22 it. He didn't try to access it after two-thousand-and --  
23 whatever the time referenced in the information and for two  
24 years he has been seeing these doctors. He sees them once a  
25 week, the drug abuse counselor, the psychosexual therapist, he

JBP5colP

plea

1 sees him once a week. He goes to an IPO that pretrial set up  
2 three times a week and for the first time in his life -- and  
3 his family can attest to it -- he is on the right medications,  
4 he is getting the right type of treatment. So, again, to rip  
5 him away from that, Judge, at this point in time, to me I think  
6 would be a great, grave injustice.

7 And, I am familiar with the case that the government  
8 cited regarding child care. He has got four kids. One  
9 daughter has an incurable auto-immune disease that basically  
10 the medication -- and he lost his job for CNBC when these  
11 charges were filed, obviously -- it's over \$200,000 just for  
12 the medication.

13 So, again, that's a unique circumstance and I'm not  
14 saying that in itself is enough to satisfy that exception but  
15 this whole case is different. I submit, Judge, once I submit  
16 that sentencing memorandum with regards to 3553 you will have  
17 never seen a case like this and circumstances explaining  
18 exactly -- not that it's a defense -- why he did what he did  
19 and, more importantly, what he has done to address those issues  
20 so we won't have any issues again. And, for two years before  
21 his arrest it's clear that he is doing the right thing and I  
22 think that's unique based on any case that I have ever had like  
23 this.

24 THE COURT: Thank you.

25 I find compelling defense counsel's arguments as to

JBP5colP

plea

1 the unique nature of the case but I do think that they are  
2 arguments that go, at base, to danger to the community and  
3 otherwise are sentencing arguments. Congress has mandated  
4 remand for this category of crime. I am allowed a limited area  
5 of discretion for exceptional circumstances. I have exercised  
6 that discretion in some cases but don't think that the  
7 arguments put forward here meet the Circuit's requirements  
8 under the Leah case and others. I have also looked for  
9 comparable cases in this district and others and find that  
10 they, the arguments being made fall on the category of  
11 non-extraordinary, they go to purely personal circumstances,  
12 they are not exceptional in terms of the arguments being put  
13 forward, and I just don't think that the standard quite -- the  
14 quite narrow area of discretion that I have is met here. And  
15 so, I must order remand pending sentencing as is required under  
16 the statute.

17 Mr. Bilinkas, there is a possibility of expedited  
18 sentencing. If you are interested in discussing that -- I have  
19 set sentencing for three months' time, approximately, which is  
20 the standard time that Probation needs to prepare the  
21 presentence report with the full set of review opportunities  
22 that exist under Rule 32. Those can be Mr. Collins' right to  
23 review the report before submission can be waived. If you want  
24 do expedited sentencing in that case it could be set for  
25 approximately six weeks from now.

JBP5colP

plea

1 (Defendant and counsel conferring)

2 MR. BILINKAS: If I can please have a moment, Judge?

3 THE COURT: You may.

4 (Defendant and counsel conferring)

5 MR. BILINKAS: Judge, as far as the presentence  
6 report, it would be prepared on an expedited basis?

7 THE COURT: Basically, under Rule 32 of the Federal  
8 Rules of Criminal Procedure, the defendant has a right to see  
9 the report and comment on it before the final report is  
10 prepared. In order for probation to prepare the report and do  
11 that, three months is the minimum and I have set sentencing  
12 for, I think, but approximately three months. But, he could  
13 waive the right to review it before final submission in which  
14 case we could set sentencing for approximately six weeks.

15 MR. BILINKAS: Judge, I have discussed that with  
16 Mr. Collins. We are going to keep it at the February date.

17 THE COURT: Thank you.

18 The materials that you submitted, Mr. Bilinkas, would  
19 you like those accepted as part of the record? Docketed?

20 MR. BILINKAS: Judge, I intend to attach those to a  
21 sentencing memo so I don't need to do that at this point.

22 THE COURT: So I will hand these back to you. Thank  
23 you.

24 Counsel, is there anything else that I can address at  
25 this time?

JBP5colP

plea

1 MS. BHASKARAN: Not from the government, your Honor.

2 THE COURT: Okay.

3 MR. BILINKAS: Judge, my client is on all sorts of  
4 mental health medications which his family brought with him  
5 today. I don't know how those are going to be disbursed. He  
6 also has asthma. Again, I am worried about him going into  
7 custody and if he doesn't get these medications, it can have a  
8 very adverse impact on him.

9 THE COURT: Well, the Marshals are here for remand and  
10 they'll process him according to their standard procedures  
11 including any onboarding of medication or the like.

12 MR. BILINKAS: Should we have him take those  
13 medications with him, Judge?

14 THE COURT: That's going to be up to the marshals who  
15 will process him for remand. Whatever their normal process is.

16 MR. BILINKAS: All right.

17 THE COURT: So, I do order remand to the custody of  
18 the United States Marshals.

19 Counsel, is there anything else I can address at this  
20 time?

21 MR. BILINKAS: No, Judge.

22 MS. BHASKARAN: No, your Honor.

23 THE COURT: Thank you. We are adjourned.

24 o0o